

CODE OF CONDUCT FOR PROBATION OFFICERS

Probation officers are an extension of the Indiana Judiciary and as such, shall be held to the highest standards of conduct that promote an independent, fair, and impartial judiciary. In addition to the Code of Conduct established in this document and where applicable, probation officers shall be responsible to the Code of Judicial Conduct adopted by the Supreme Court of Indiana which supersedes in any area of conflict between the two Codes.

The people of Indiana expect probation officers to hold and maintain unfailing honesty; respect for the dignity and individuality of human beings; and a commitment to professional and compassionate service. To this end, probation officers shall comply with the following Code of Conduct.

1. PROBATION OFFICERS SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

1.1 A probation officer shall comply with the law.

Failing to comply with the law undermines the integrity of probation and the judiciary.

1.2 A probation officer shall follow the directives of the judiciary, respecting its authority, and recognizing at all times they are an extension of the court.

A probation officer should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the probation officer must act in a manner consistent with this Code and the appointing court.

1.3 A probation officer shall act at all times in a manner that promotes public confidence in the judiciary and probation and shall avoid impropriety and the appearance of impropriety.

Public confidence in probation is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a probation officer.

The use of Internet social networking sites is a prominent form of communication that continues to grow immensely. A probation officer should always be mindful of the public aspect of these networks and adjust his/her

postings accordingly so as to not run afoul of a probation officer's ethical obligation to act at all times in a manner that promotes confidence in probation and the judiciary.

A probation officer should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the Code.

Actual improprieties include violations of law, court rules, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the probation officer violated this Code or engage in other conduct that reflects adversely on the probation officer's honesty, impartiality, temperament, or fitness to serve as a probation officer.

1.4 A probation officer shall not abuse the prestige of the position to advance personal or economic interest.

It is improper for a probation officer to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a probation officer to allude to his or her probation officer status to gain favorable treatment in encounters with traffic officials.

1.5 A probation officer shall not make critical statements of colleagues or their departments or courts unless constructive in purpose.

Public confidence in probation and the judiciary is eroded when unconstructive comments are made by members of the criminal justice system. Statements which are intended to improve services and raise the level of excellence provided should be encouraged at appropriate times.

2. PROBATION OFFICERS SHALL PERFORM THEIR DUTIES IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

2.1 A probation officer shall serve each case with sincere concern and objectivity for the person's welfare and with respect for the person's human, civil, and legal rights.

Although each probation officer comes to the profession with a unique background and personal philosophy, a probation officer must serve each case without regard to whether the probation officer approves or disapproves of the case circumstances or behavior of the person under community supervision.

2.2 A probation officer shall not, in the performance of duties, by word or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to others an appearance of bias or prejudice. Probation officers must avoid conduct that may reasonably be perceived as prejudiced or biased.

2.3 A probation officer shall not use speech, gestures, or engage in any other conduct that could reasonably be perceived as sexual harassment.

Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.

2.4 A probation officer shall not be swayed by public clamor or fear of criticism.

Probation officers must conduct their duties according to the law, probation standards, this Code, and orders from the court, without regard for whether particular laws or probationers are popular or unpopular with the public, media, government officials, friends, or family. Confidence in probation and the judiciary is eroded if decision making is perceived to be subject to inappropriate outside influences.

2.5 A probation officer shall not make any public statement regarding a proceeding pending or impending in any court regarding the investigation or supervision of any person.

Restrictions on speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

2.6 A probation officer shall make clear those public statements that are personal views as opposed to those statements and positions that are on behalf of a department.

Restrictions on speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

2.7 A probation officer shall not, in connection with cases, controversies, or issues that are likely to arise, make pledges, promises, or commitments that are inconsistent with the impartial, competent, and diligent performance of his or her duties.

Notwithstanding the restrictions listed in this Code, probation officers may make public statements, if permitted by the supervising judge, regarding official duties, policies, and procedures. Probation officers may comment on any proceeding in which the probation officer is a litigant in a personal capacity.

2.8 A probation officer shall not permit family, social, political, financial, or other interest or relationships to influence the conduct or judgment in the performance of his or her duties and shall remove him or herself from the investigation or supervision of a case where undue influence or the appearance of undue influence may call into question the performance of his or her duties.

The rule of necessity may override the rule of removal. For example, in smaller departments a probation officer might be the only probation officer available in a matter that requires immediate action, such as taking a child into custody. In matters that require immediate action, the probation officer shall report to his/her supervising judge the issues that may require the probation officer to be removed from the case and make reasonable efforts to transfer the matter to another probation officer as soon as practicable.

2.9 A probation officer shall not accept any gift or favor that may imply an obligation that is inconsistent with the free and objective performance of professional duties.

Whenever a probation officer accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the probation officer's decision in the performance of professional duties.

2.10 A probation officer shall respect the importance of all elements of the criminal justice system, while cultivating relationships, promoting mutual respect, improving the quality of service, and furthering professional cooperation.

Respect and professional cooperation among court personnel, court officers, and other members of the criminal justice system will raise the level of excellence in the services provided and promote confidence in the system.

2.11 A probation officer shall respect the rights of the public to be safeguarded from criminal/delinquent activity, while respecting the community's right to know, and at the same time balancing the public good with the probationer's rights of privacy.

Probation officers shall follow all laws and Rules regarding confidentiality of records. Public access to records does not require the routine publishing of these records unless required by law.

2.12 A probation officer shall make available, for review by the court, accurate records and all case information in order to assist in sound decisions affecting both the person under community supervision and public safety.

All records a probation officer creates, maintains, and retains in each case are subject to the court's review and governed by the Administrative Rules of Indiana Courts.

2.13 A probation officer shall be patient, dignified, and courteous to all persons with whom the probation officer works in an official capacity.

Being patient, dignified, and courteous is not inconsistent with being efficient and businesslike. Professionalism is imperative in our role in the criminal justice system.

2.14 A probation officer shall not initiate any communication with a court that could reasonably be considered unauthorized ex parte communication.

A probation officer may consult with the court as their function is to aid the court in carrying out the court's adjudicative responsibilities provided the probation officer makes reasonable efforts to avoid providing factual information that is not part of the record and does not prohibit any person who has a legal interest in a proceeding the right to be heard according to law.

3. A PROBATION OFFICER SHALL CONDUCT PERSONAL AND OTHER ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THE DUTIES OF THEIR POSITION.

- 3.1 A probation officer shall not make use of a department's premises, staff, stationary, equipment, or other resources, except for incidental use or for activities that concern the duties of their position.**

A department's resources shall not be used for personal gain and shall be used to carry out the duties to which the probation officer was appointed to perform.

- 3.2 A probation officer shall not intentionally disclose or use nonpublic information acquired in the performance of his or her duties for any purpose unrelated to those duties.**

In the course of performing probation duties, a probation officer may acquire information of commercial or other value that is unavailable to the public. The probation officer must not reveal or use such information for personal gain or for any purpose unrelated to his or her probation duties. This is not intended, however, to affect a probation officer's ability to act on information as necessary to protect the health or safety of the probation officer or a member of the probation officer's family, court personnel, or other judicial officers if consistent with other provisions of this Code and/or the Indiana Code of Judicial Conduct.

- 3.3 A probation officer shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation.**

A probation officer's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A probation officer's membership in an organization that practices invidious discrimination creates the perception that the probation officer's impartiality is impaired.

An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which probation officers should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private

organization whose membership limitations could not constitutionally be prohibited.

When a probation officer learns that an organization to which the probation officer belongs engages in invidious discrimination, the probation officer must resign immediately from the organization.

A probation officer's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. This Rule does not apply to national or state military service.

3.4 A probation officer shall not engage in any business, financial, or other remunerative activity if engaging in the activity would interfere with the proper performance of his or her duties.

Probation officers are generally permitted to engage in financial and business activities subject to the requirements of this Rule and all other provisions of the Code. For example, it would be improper for a probation officer to spend so much time on business activities that it interferes with the performance of his or her duties. Similarly, it would be improper for a probation officer to use his or her official title in business advertising or to permit the use of the position in the business activities.

3.5 A probation officer shall not accept any gifts, loans, bequests, benefits, or other things of value if acceptance is prohibited by law or would appear to a reasonable person to undermine the performance of his or her duties.

Whenever a probation officer accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the probation officer's decision in the performance of professional duties.

Unless otherwise prohibited by law, a probation officer may accept the following if approved by his or her supervising judge: items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards; gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons where if a case were present it would require the probation officer to remove him or herself from the case consistent with this Code; ordinary social hospitality; and other events, awards, prizes, discounts, etc. that are made available on the same terms to similarly situated persons who are not probation officers.

4. A PROBATION OFFICER SHALL BE GOVERNED BY CANON 4, RULE 4.6 OF THE CODE OF JUDICIAL CONDUCT ADOPTED BY THE SUPREME COURT OF INDIANA REGARDING POLITICAL ACTIVITIES.

4.1 Political affiliation shall not be a condition nor encouraged of or for employment or disqualification for employment as a probation officer.

Public confidence in the independence and impartiality of the judiciary and probation is eroded if probation officers are perceived to be subject to political influence.

Although probation officers may register to vote as members of a political party, they are prohibited from assuming leadership roles in political organizations.

4.2 Financial or in-kind contributions to a political party or candidate shall not be required nor encouraged as a condition of or for employment as a probation officer.

Public confidence in the independence and impartiality of the judiciary and probation is eroded if probation officers are perceived to be subject to political influence.

Although probation officers may register to vote as members of a political party, they are prohibited from assuming leadership roles in political organizations.

4.3 Political expression or activity by a probation officer shall not occur during the performance of a probation officer's duties.

Political activity, when appropriate, shall take place away from the office and any other employment location. No political activity is appropriate during working hours. Probation department staff should avoid any impression that their political expressions represent the department or any other person. No governmental property shall be used for any political purposes.

The appointing court(s) may enforce other limitations on political activity.

5. A PROBATION OFFICER SHALL UPHOLD, SUPPORT, AND MAINTAIN THE PROCEDURES AND ACTIVITIES CONVEYED IN THE PROBATION STANDARDS AND THE CODE OF CONDUCT FOR PROBATION OFFICERS.

5.1 A probation officer having knowledge that another probation officer has committed a violation of this Code that raises substantial question regarding the probation officer's honesty, trustworthiness, or fitness as a probation officer in other respects shall inform the appropriate authority.

Taking action to inform the appropriate discipline authority to address known misconduct is a probation officer's obligation. Ignoring or denying known misconduct among one's colleagues undermines a probation officer's responsibility to participate in efforts to ensure public respect for the justice system.

A probation officer who does not have actual knowledge that another probation officer committed misconduct, but who receives credible information indicating a substantial likelihood of such misconduct, is required to take action to inform the appropriate discipline authority. Appropriate action may include, but is not limited to, communicating with the chief probation officer, supervising judge, or reporting the suspected violation to the Judicial Qualifications Commission.

5.2 A probation officer shall cooperate and be candid and honest with any disciplinary proceeding.

Cooperation with investigations and proceedings regarding discipline instills confidence in a probation officer's commitment to the integrity of the justice system and the protection of the public.

5.3 A probation officer shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a probation officer.

Taking action to address known misconduct is a probation officer's obligation. Retaliation by a probation officer raises substantial question regarding the honesty, trustworthiness, or fitness of that probation officer.

- 5.4 The supervising judge, chief probation officer, or other probation officer designated by the supervising judge shall investigate reports of violations of the Code of Conduct and/or other disciplinary matters. A written report of the investigation shall be provided to the supervising judge and the accused probation officer.**

The purpose of a disciplinary investigation is to obtain all the relevant facts about an alleged breach of discipline. The key issues for the investigating person are to establish the law, policy, standard, rule, or code that is alleged to have been breached; to obtain evidence relevant to the allegation; to obtain a version of the events from the person who is under investigation; and to determine, on the basis of the evidence obtained, whether there is evidence of a breach of discipline, and if so, the nature of the alleged offense.

- 5.5 The supervising judge should seek an opinion regarding the conduct in question from the Judicial Qualifications Commission if a probation officer is accused of violations of the Code of Conduct. The supervising judge may make any appropriate disposition including, but not limited to, dismissal of the charges, discipline, or discharge of the probation officer.**

Additional information regarding the conduct in question from the Judicial Qualifications Commission may aid the supervising judge in making decisions based on the situation.